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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,748	02/08/2001	Sun-Im Park	8733.395.00	4145

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EXAMINER

LUONG, SHIAN TINH NHAN

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 04/01/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	MJP
	09/778,748	PARK, SUN-IM	
	Examiner	Art Unit	
	Shian T. Luong	3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____ .
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.
- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on ____ is: a) approved b) disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. ____ .
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s) ____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ . | 6) <input type="checkbox"/> Other: _____ |

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-3, 5-10 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2, 4-7, 9-13, 15-16, 18 of U.S. Patent No. 6,145,663 in view of Moren et al (US 6,142,304). Although Kim et al. does not disclose a side wall extending from an end wall of the first side wall, it would have been obvious in view of Moren et al. to provide an end wall extending from an end of the side wall to protect the fixing jaws and the content therein.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the upper plate connected to a second side wall must be shown or the feature(s) canceled from claims 9 and 20. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

4. Claims 9 and 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The upper plate is not foldably connected to the second sidewall but only to the first side wall as recited in claims 1 and 12.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-14, 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gale (US 5,806,683) in view of Moren et al. (US 6,142,304). Gale discloses an apparatus 12

comprising a lower plate, two side plates extending from the lower plate and an upper plate 16 extending from one of the sidewalls. A plurality of fixing jaws 37 is disposed on surfaces of the lower plate. Gale discloses generally all of the elements of the claims, but does not disclose a side wall extending from an end of the sidewall. Moren et al. is cited merely to show that an end wall could be easily provided on an end of a sidewall of a multiple sections package. This would not alter the function of the package to protect the fragile article therein.

7. Claims 1-14, 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moren et al. (US 6,142,304). Moren et al. discloses an apparatus 10 comprising a lower plate 14, two side plates extending from the lower plate. A plurality of fixing jaws 50 is disposed on surfaces of the lower plate. Alternating stepped protrusions 80 are disposed on the exterior portion of the side walls. A third and fourth sidewall each extends from the respective end portion of the first and second sidewalls. A plurality of grooves at the upper edges of the first and second sidewalls. A wall 32 extends between the first and second sidewalls. Moren et al. discloses generally all of the elements of the claims, but does not disclose an upper panel extending from one of the sidewalls. However, Gale teaches an apparatus 12 comprising a lower plate, two side plates extending from the lower plate and an upper plate 16 extending from one of the sidewalls. A plurality of fixing jaws 37 is disposed on surfaces of the lower plate. It would have been obvious to provide an upper plate pivotally attached to one of the sidewalls to protect the fragile articles top surface, as it is evident from the prior art disclosure of Moren et al. that this is conventionally done.

Allowable Subject Matter

8. Claim 15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

9. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners, M.P.E.P. 203.08. **The Group clerical receptionist number is (703) 308-1148 or the Tech Center 3700 Customer Service Center number is (703) 306-5648.**

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Donna Monroe at (703) 308-2209.

For applicant's convenience, the Group Technological Center FAX number is (703) 305-3579 or (703)305-3580. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify Examiner Luong of Art Unit 3728 at the top of your cover sheet of any correspondence submitted.

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Inquiries concerning the merits of the examination should be directed to Shian Luong whose telephone number is (703) 308-2039. The examiner can normally be reached on T-F from 7:00am to 4:00pm EST.

STL
March 27, 2003



Primary Examiner
Shian Luong
Art Unit 3728